

### REMARKS

The Office Action mailed January 18, 2011 has been carefully considered.

Reconsideration in view of the following remarks is respectfully requested.

Prior to this amendment, claims 1-28 were pending in this application.

Claims 13-22 have been allowed.

Claims 1-4, 6-8, 11, and 23-27 have been amended to address §101 issues set forth in the Office Action. No new matter has been added. Support for these changes may be found in the specification, e.g. paragraphs [0007], [0016]-[0018], [0027], [0030], [0049], [0050], [0058], [0061], [0064] and [0080].

Claim 28 has been canceled, without prejudice or disclaimer of the subject matter contained therein.

Reconsideration is respectfully requested in light of the above amendments and the following remarks.

### STATEMENT OF SUBSTANCE OF INTERVIEW

Applicant would like to sincerely thank Examiner Joseph Stoklosa for conducting a telephone interview with Applicant's attorney, Theresa A. Takeuchi, on January 4, 2011. 35 USC §101 issues were discussed regarding claims 1, 23, and 27.

35 U.S.C. § 101 Rejections

In the Office Action the Examiner rejected claims 1-12 and 23-28 under 35 U.S.C. § 101, as being directed to non-statutory subject matter. Applicants respectfully traverse the rejection.

Applicants believe that claims 1-12 and 23-28 as previously presented are directed to patentable subject matter. However, Applicants have amended independent claims 1, 23, and 27 solely to advance prosecution of this application and obtain the allowance of the claims at the earliest possible date. No admission should be inferred by these amendments, and Applicants reserve the right to prosecute the originally filed claims in future prosecution.

In the Office Action, the Examiner was of the position that "The recited method steps do not require a specific apparatus, and amount to manipulation of data. The claims fail to provide for a transformation of data or the creation of new data. It is suggested that Applicant provide a specific apparatus for practicing the method, and a transformation of the data by positively reciting that therapy is delivered based on the comparing of the manipulated data. It is suggested that step 'd' from claim 1, be put in a positive recitation such as "delivering therapy... ' and an ECG or EGM signal is obtained to detect the premature ventricular contractions." See p. 2, paragraph 3, Office Action, January 18, 2011.

35 U.S.C. § 101 offers patent protection for "any new and useful process, machine, manufacture, or composition of matter." In *Bilski* the Court held that the machine-or-transformation offers "a useful and important clue, an investigative tool, for determining whether some claimed inventions are processes under §101.

*Bilski v. Kappos*, 130 S. Ct. 3218 (2010). Applicant respectfully asserts that amended independent claims 1, 23, and 27 are “tied to a particular machine,” and are thus patentable for at least this reason.

Claim 1, as amended, recites, among other elements,:

d. comparing said difference to a predetermined morphology threshold using a **microprocessor** (emphasis added).

Similarly, claim 23, as amended, recites, among other elements,:

d. comparing said difference between coupling intervals to a predetermined coupling interval threshold using a **microprocessor**;

...

f. comparing said difference between morphologies to a predetermined morphology threshold using the **microprocessor** (emphasis added).

Likewise, claim 27 as amended, recites, among other elements,:

c. comparing said difference between coupling intervals of said at least two PVCs to a coupling interval threshold using a **microprocessor**;

...

e. comparing a difference in morphologies of said at least two PVCs to a morphology threshold when said difference between coupling intervals is greater than the coupling interval threshold using the **microprocessor**

(emphasis added).

The recited microprocessors must be programmed in a particular manner to perform the claimed comparing steps. The comparing steps require a particularly

programmed microprocessor, thus there is a particular machine. The comparing steps are central to the embodiments of the claimed methods invented by Applicant –it is not a mere field-of-use or insignificant extra-solution activity. See USPTO's Interim Examination Guidelines for Determining Whether a Claim is Properly Directed to Patentable Subject Matter Under 35 U.S.C. § 101, dated August 2009, p. 15.

According, with this amendment it is respectfully submitted that claims 1, 23, and 28 satisfy the statutory requirements of 35 U.S.C. § 101.

#### Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Theresa A. Takeuchi at (408) 522-6167.

Pursuant to 37 C.F.R. 1.136(a)(3), Applicant hereby requests and authorizes the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 22-0265.

Respectfully submitted,

Dated: April 18, 2011

A handwritten signature in cursive script, appearing to read 'Theresa Takeuchi', written over a horizontal dotted line.

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